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Of Attorneys for Defendant Nether Industries Incorporated

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

BRIDGETOWN NATURAL FOODS, LLC,  
an Oregon limited liability corporation,

Case No. 3.18-cv-01838-AC

Plaintiff,

v.

**THIRD-PARTY COMPLAINT**

NETHER INDUSTRIES INCORPORATED, a  
Washington corporation,

Defendant.

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NETHER INDUSTRIES INCORPORATED, a  
Washington corporation,

Third-Party Plaintiff,

v.

LaBRECK STAINLESS WORKS, LLC, an  
Idaho limited liability corporation,

Third-Party Defendant.

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AS AND FOR ITS Third-Party Complaint, third-party plaintiff Nether Industries

Incorporated (“Nether”) alleges:

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1. Nether is a Washington corporation with its principal place of business in Washington.
2. LaBreck Stainless Works, LLC, is an Idaho limited liability corporation with its principal place of business in Idaho.
3. Nether is a named defendant in *Bridgetown Natural Foods, LLC v. Nether Industries Incorporated*, United States District Court for the District of Oregon, Portland Division, case no. 3.18-cv-01838-AC. A copy of the Complaint therein is attached as Exhibit 1 and incorporated herein for purposes of reference only, and not as an admission of any of the allegations contained therein.
4. LaBreck assisted in the design of the chocolate melting tank, manufactured the tank, and sold it to Nether. LaBreck delivered the tank to Bridgetown Natural Foods' facility in Portland Oregon. Bridgetown and Nether installed the tank in Bridgetown's facility in Portland, Oregon.

**FIRST CLAIM FOR RELIEF**  
(Contribution)

5. LaBreck was negligent in its design, manufacture and sale of the chocolate melting tank.
6. LaBreck's negligence was a contributing cause of Bridgetown's claimed damages.
7. LaBreck's liability in tort to Bridgetown requires its fault to be compared pursuant to the provisions of ORS 31.600, *et seq.*

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WHEREFORE, Nether Industries Incorporated prays for judgment in its favor and against LaBreck Stainless Works, LLC, for contribution, together with an award of Nether's costs and disbursements incurred herein, and any other relief the court deems reasonable and just.

Dated: November 28, 2018

**LAW OFFICE OF JULIE D. ELKINS**

By: s/ Barry W. Dod  
Barry W. Dod, OSB # 822403  
Email: [barry.dod@farmersinsurance.com](mailto:barry.dod@farmersinsurance.com)  
Of Attorneys for Defendant/Third-Party Plaintiff Nether Industries

## CERTIFICATE OF SERVICE

I hereby certify that I served, on the date set forth below, the foregoing **THIRD-PARTY COMPLAINT** upon:

Kurt C. Peterson  
Kilmer, Voorhees & Laurick, PC  
732 NW 19<sup>th</sup> Avenue  
Portland, OR 97209-1302  
Telephone: (503) 224-0055  
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Email: [kpeterson@kilmerlaw.com](mailto:kpeterson@kilmerlaw.com)

*Of Attorneys for Plaintiff*

by the following indicated method(s):

- ☐ by **MAILING** full, true and correct copies in sealed, postage paid envelopes, addressed as shown above, and deposited with the U.S. Postal Service at Portland, Oregon;
- ☒ by **E-FILING** a full, true and correct copy thereof to the attorney, as shown above, at the electronic mail address reflected on the court's CM/ECF system;
- ☐ by causing full, true and correct copies to be **HAND-DELIVERED** to the parties, and at the addresses, indicated above;
- ☐ by **FAXING** a full, true and correct copy to the parties indicated above.

DATED this 28<sup>th</sup> day of November, 2018.

s/ Barry W. Dod

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Barry W. Dod, OSB # 822403  
Of Attorneys for Defendant/Third-Party Plaintiff Nether Industries